

Bureau of Land Management, Interior

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- (1) In the public interest; and
- (2) Impracticable to obtain competition.

(b) BLM will charge the purchaser a processing fee on a case-by-case basis as described in §3000.11 of this chapter.

(c) BLM will not approve multiple noncompetitive sales that exceed a total of 300,000 cubic yards (or weight equivalent) made in any one State for the benefit of any one purchaser, whether an individual, partnership, corporation, or other entity, in any period of 12 consecutive months.

(d) The volume limitations in paragraphs (a) and (c) of this section do not apply to sales in the State of Alaska that BLM determines are needed for construction, operation, maintenance, or termination of the Trans-Alaska Pipeline System or the Alaska Natural Gas Transportation System.

(e) The volume limitations in paragraphs (a) and (b) of this section do not apply if:

(1) BLM determines that circumstances make it impossible to obtain competition; or

(2) There is insufficient time to invite competitive bids, because of an emergency situation affecting public property, health, or safety.

[66 FR 58901, Nov. 23, 2001, as amended at 70 FR 58878, Oct. 7, 2005; 73 FR 35592, June 24, 2008]

§ 3602.32 What volume and other limitations pertain to noncompetitive sales associated with public works projects?

BLM may sell mineral materials not exceeding 400,000 cubic yards (or weight equivalent), at not less than fair market value, without advertising or calling for bids if:

(a) BLM determines the sale to be in the public interest; and

(b) The materials will be used in connection with an urgent public works improvement program on behalf of a Federal, State, or local governmental agency, and time does not permit advertising for a competitive sale.

§ 3602.33 How will BLM dispose of mineral materials for use in developing Federal mineral leases?

(a) If you propose to use mineral materials in connection with developing a

mineral lease issued by BLM, we may, without calling for competitive bids, sell you at fair market value a volume of mineral materials not exceeding a total of 200,000 cubic yards (or weight equivalent) in one State in any period of 12 consecutive months.

(b) If the materials remain within the boundaries of the lease, BLM will not charge for mineral materials that you must move in order to extract minerals under a Federal lease, whether or not you use them for lease development.

§ 3602.34 What is the term of a noncompetitive contract?

BLM will not issue a noncompetitive contract for the sale of mineral materials for a term exceeding 5 years, excluding any contract extension under §3602.27 and any period that BLM may allow for removal of equipment and improvements under §3601.52.

COMPETITIVE SALES

§ 3602.40 Competitive sales.

In addition to the following sections, §§3602.41 through 3602.49, the provisions of §§3602.11 through 3602.29 also apply to competitive sales.

§ 3602.41 When will BLM sell mineral materials on a competitive basis?

Except for sales from community pits and common use areas under subpart 3603 of this part, and noncompetitive sales under §3602.30 *et seq.*, BLM will make sales only after inviting competitive bids through publication and posting under §3602.42.

§ 3602.42 How does BLM publicize competitive mineral materials sales?

(a) When offering mineral materials for sale by competitive bidding, BLM:

(1) Will advertise the sale by publishing a sale notice in a newspaper of general circulation in the area where the material is located, on the same day once a week for 2 consecutive weeks; and

(2) Will post a sale notice in a conspicuous place in the office where you will submit bids.

(b) In the sale notice, BLM will state:

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- (1) By legal description, the location of the tract or tracts on which we are offering the materials;
- (2) The kind of materials we are offering;
- (3) The estimated quantities of materials we are offering;
- (4) The unit of measurement;
- (5) The appraised prices;
- (6) The time and place for receiving and opening of bids;
- (7) The minimum deposit we require;
- (8) If the sale is by request, the total cost recovery fee paid to BLM by the applicant up to 21 days before the sale;
- (9) The site access that will be available to the purchaser;
- (10) The method of bidding;
- (11) If applicable, that the purchaser must file mining or reclamation plans;
- (12) The bonding requirement;
- (13) The location for inspection of contract terms and proposed stipulations;
- (14) The address and telephone number of the office where you may obtain additional information;
- (15) Whether BLM will renew the contract; and
- (16) Any additional information that BLM deems necessary.

(c) BLM may, in its discretion, extend the period of time for advertising;

(d) BLM will not hold sales sooner than 1 week after the last advertisement.

[66 FR 58901, Nov. 23, 2001, as amended at 70 FR 58878, Oct. 7, 2005]

§ 3602.43 How does BLM conduct competitive mineral materials sales?

(a) The applicant requesting a mineral materials sale must pay a processing fee on a case-by-case basis as described in § 3000.11 of this chapter as modified by the provisions in this section and in § 3602.42(b)(8). The cost recovery process for a competitive mineral materials sale follows:

(1) The applicant requesting the sale must pay the cost recovery fee amount before BLM will publish a sale notice.

(2) Before the contract is issued:

(i) The successful bidder, if someone other than the applicant, must pay to BLM the cost recovery amount specified in the sale notice; and

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(ii) The successful bidder must pay all processing costs BLM incurs after the date of the sale notice.

(3) If the successful bidder is someone other than the applicant, BLM will refund to the applicant the amount paid under paragraph (a)(1) of this section.

(b) In conducting a competitive sale, BLM may require submission of sealed written bids, oral bids, or a combination of both. The sale notice will state how you must submit your bid. If 2 or more persons make identical high sealed bids, BLM will determine the highest bid by holding an oral auction among the persons making the identical high bids. If no oral bid is made higher than the sealed bids, BLM will pick the successful bidder by lot. After BLM announces the high bid at an oral auction, if you are the high bidder you must confirm that bid in writing at least by the close of business on the date of the sale, or by such time as BLM may specify in the sale notice.

(c) When BLM determines that it is in the public interest to do so, we may reject any or all bids, or may waive minor deficiencies in the bids that would not ordinarily affect the outcome of the bidding.

[66 FR 58901, Nov. 23, 2001, as amended at 70 FR 58878, Oct. 7, 2005]

§ 3602.44 How do I make a bid deposit?

(a) If you wish to make a bid to purchase mineral materials, you must submit a deposit in advance of the sale.

(1) Your sealed bids must contain a deposit.

(2) At an oral auction, you must make your deposit before the opening of the bidding.

(b) Your deposit must be the greater of \$500 or 5 percent of the appraised value as we specify in the sale notice.

(c) Your deposit may be in the form of cash, a money order, a bank draft, or a cashier's or certified check made payable to the Bureau of Land Management.

(d) If you are not the successful bidder, BLM will return your bid deposit when the bidding concludes.

(e) If you are the successful bidder, BLM will apply your deposit to the purchase price.

(f) BLM will charge the successful bidder a processing fee on a case-by-